

***Adult Protection  
Coordinating Council***

***Annual Report***

***2001***

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## **I. Foreword**

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2001 is submitted to the Council as a written summary of the Council's accomplishments and plans for future activities. This report serves as a public record of compliance with the Council's statutory duties as written in the South Carolina Code of Laws, Section 43-35-310.

## **II. History**

In 1990, a group of concerned individuals presented testimony at the Joint Legislative Committee on Aging Public Hearing regarding the depth of concern about the adult protection system in our state. As a result of this testimony, a Joint Resolution was sponsored by the Joint Legislative Committee on Aging mandating the South Carolina Long Term Care Council to convene an Advisory Committee on Adult Abuse, Neglect and Exploitation. On April 24, 1991, Governor Carroll A. Campbell, Jr., signed the Joint Resolution into law.

The former Long Term Care Council convened the required Advisory Committee which identified the problem areas in the adult protection system and made comprehensive recommendations to improve the system in the areas of training, employment issues, advocacy, public awareness, care issues, coordination and legal issues. The Advisory Committee then completed the development of the Omnibus Adult Protection Act. It was signed into law by Governor Campbell on June 11, 1993, with an effective date of September 11, 1993.

Generally, the Omnibus Adult Protection Act:

Created an effective system for reporting, investigating and prosecuting adult abuse, neglect and exploitation and included role clarification for the entities involved.

Clearly defined the protected class of individuals. Vulnerable adult means a person age 18 years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental or emotional dysfunction. A resident of a facility is a vulnerable adult.

Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.

Addressed overlapping jurisdictions.

Addressed confusing and duplicate reporting requirements.

Clarified and set out identical statutory definitions of abuse, neglect and exploitation for instances that occur in the community and in facilities. Previously, the Department of Social Services and the Long Term Care Ombudsman program operated under different definitions.

Set out the circumstances under which law enforcement can take an adult into protective custody (See Section 43-35-45).

### **III. Legislative Intent**

The General Assembly found it necessary to create the Omnibus Adult Protection Act: 1) To provide a system of adult protection in South Carolina; 2) To clarify the roles and responsibilities of agencies involved in the system; 3) To provide a mechanism for problem resolution and interagency coordination; 4) To address continuing needs of vulnerable adults; 5) To uniformly define abuse, neglect and exploitation for vulnerable adults in all settings; 6) To clarify reporting procedures for allegations of abuse, neglect and exploitation; 7) To provide procedures for emergency protective custody; 8) To define the role of the court in the adult protection system; and, 9) To provide services in the least restrictive setting possible.

### **IV. Adult Protection Coordinating Council**

Article Three of the Act created an Adult Protection Coordinating Council under the auspices of the State Department of Health and Human Services (DHHS). The Council was created because of the depth of concern about the need for frequent, continued coordination and cooperation among the entities involved specifically in the adult protection system. The twenty-two member Council is composed of twenty public and private organizations and two gubernatorial appointees. (See Appendix A.) It is thought to be the only council of its type in the United States. Staffing for the Council is provided by the Office of Senior and Long Term Care Services of the DHHS.

### **V. Summary of Activities**

Members of the Council continue to make every effort to coordinate activities in the adult protection system. The Council consists not only of members from traditional health and human services agencies, but from a variety of public and private entities. There is coordination among various state level agencies and departments. The public and private sectors are working together through this Council to develop resources and coordinate services.

The Council is committed to accountability for the accomplishment of its statutory duties as

it relates to the adult protection system and as outlined in the Act. (See Appendix B.) Activities to address statutory duties sometimes overlap. Activities undertaken by the Council over the past year to address its mandates are discussed below.

### *Training*

The Council remains committed to training and education for law enforcement, human services and other professionals who serve vulnerable adults who may be at risk of abuse, neglect and exploitation. In addition to providing general, basic training for a diverse audience, outreach efforts were initiated to provide training for specific professional groups.

A workshop was conducted at the conference of the South Carolina Association of Probate Judges in January 2001 with forty-four attending. A panel of experts provided information regarding the Omnibus Adult Protection Act and discussed the Probate Code sections pertinent to adult protection.

In February 2001, the Council partnered with the U. S. Attorney's Office, South Carolina Sheriffs' Association and the Department of Public Safety, Criminal Justice Academy Division for a two-day conference. There were 205 participants in attendance. The sessions included the Omnibus Adult Protection Act; medical issues regarding dementia and depression; elderly and persons with disabilities as unrecognized victims of abuse, neglect and exploitation; victim services; and the federal and state response to abuse and neglect in institutions. Continuing education credits were provided for social workers, law enforcement personnel and attorneys.

A workshop was conducted in March 2001 at the conference for the South Carolina Chapter of the National Association of Social Work (SCNASW) regarding the Omnibus Adult Protection Act and the vulnerable adult medical/legal protocol. In addition to the purpose and use of the protocol, a panel of experts provided information regarding statutory definitions, mandatory reporting requirements, the investigative entities and the indicators of abuse, neglect and exploitation. The workshop spanned two time segments with twenty-six attendees for the first segment and twenty-three attendees for the second. Continuing education credits were provided by the SCNASW.

The Attorney General's office held a two-day training conference in September 2001 and invited the Council to co-sponsor. The target audience was law enforcement and other investigators. Total attendance was 185 participants and continuing education credits were provided for law enforcement, social workers and attorneys.

To enhance communication and coordination between law enforcement and other entities, the South Carolina Sheriffs' Association collaborated with sheriffs' departments across the state to designate a senior officer as a contact person for state agencies involved in protection issues. In October 2001, the Council in conjunction with the Sheriffs' Association provided training for thirty of the designated officers. A panel of state health and human services agency representatives presented each agency's role and responsibilities and discussed areas of interaction with law enforcement.

In addition to these training events, the Council initiated plans for the development and production of videos to be used with the training manual previously developed by the Council. This initiative was made possible with contributions from the DHHS, the Department of Social Services (DSS) and the Department of Disabilities and Special Needs (DDSN). In conjunction with the training manual, the videos could be used to supplement member agencies internal staff training and to provide basic training and orientation for new staff. The videos could also be used to provide more in-depth training regarding adult protection for other professionals.

### *Public Awareness*

The Council is committed to promoting education as a means of prevention and recognizes the importance of public education as a tool for the prevention of abuse, neglect and exploitation of vulnerable adults. Initial efforts of the Council were focused on the education of law enforcement personnel, human services providers and other professionals who serve vulnerable adults who may be at risk for abuse, neglect and exploitation. Public awareness is critical to timely reporting of incidents, to intervention and prevention, and to a decrease in the incidence and prevalence of abuse, neglect and exploitation of vulnerable adults.

The Council has continued to focus on implementing the public awareness plan developed in 1999. Action steps were identified that targeted various disciplines to raise awareness in both the professional community and the public at large. Action steps included the dissemination of materials that had been developed and the development of additional materials. The development of a brochure regarding financial exploitation has been initiated.

The clergy booklet, developed to provide information specifically for clergy regarding the protection of vulnerable adults, was disseminated in January 2001. This booklet was printed by DSS and included statutory definitions, indicators, where to report abuse, neglect, and exploitation of vulnerable adults, and how to receive help. The booklet was distributed to 137 members of the faith community, hospital chaplains and congregational nurses. Additionally, the Coalition for Black Church Leaders disseminated copies to its board and denominational representatives.

At the conference with the US Attorney's Office in February 2001, resource tables were provided for conference participants. The Attorney General's Office, DDSN, Department of Mental Health (DMH), and DHHS distributed information to conference participants regarding each agencies respective programs and services.

Continuing a four-year tradition, Governor Jim Hodges proclaimed February 2001 as Vulnerable Adult Awareness Month. A copy of the Proclamation is included in Appendix D. In recognition of February as Vulnerable Adult Awareness Month, message inserts were included with state employee pay stubs for the February 16, 2001 payroll. The message provided information regarding where to report suspected abuse, neglect or exploitation.

The fact sheets and *Stop Abuse* brochure previously developed by the Council were disseminated in January 2001 at *Grand Affair*, an annual event sponsored by Palmetto

Baptist Hospital's Prime Times to showcase products and services for seniors. These materials were also disseminated in March 2001 at the Aging and Mental Health Conference and the South Carolina Retired Educators conference and in October 2001 at the joint Aging and Southeastern 4A conference. Additionally, member agencies have disseminated the materials at other events. The fact sheets provided information on the Council; the investigative entities and how to report; prevention of abuse, neglect, and exploitation; community services for adults with mental health conditions; practical tips for choosing a caregiver; and crime prevention tips for vulnerable adults. The *Stop Abuse* brochure targets the general public with information regarding indicators of abuse, neglect, and exploitation of vulnerable adults, and where to report suspicious activity.

A bookmark was developed with information regarding the Council and included a contact phone number. It was printed by the Department of Health and Environmental Control (DHEC) and disseminated at training opportunities and other events. The bookmark is also included in patient admission packets for DHEC home care services and Community Long Term Care services.

The Board of Long Term Health Care Administrators and the Board of Nursing have published articles regarding the Council for their respective professions. Additionally, a news article was prepared and submitted to *The SC Nurse* for possible publication in 2002 regarding the vulnerable adult medical/legal protocol.

### *Data*

Following extensive deliberations, the Council determined that its statutory duties regarding data could be met utilizing the individual data collected and analyzed by the member agencies. The Council received data reports from members at its meeting in May 2001.

Data from the investigative entities is found in Appendix C. The investigative entities include DSS; DHHS, State Long Term Care Ombudsman; and DHEC for complaints related to certified nursing assistants. Data regarding referrals to the Attorney General's Office by DSS and the Long Term Care Ombudsmen program are also included in Appendix C and are the reports that are simultaneously forwarded to law enforcement by DSS and the Long Term Care Ombudsmen.

The Council has continued to receive the Criminal Docket Report (CDR) (a.k.a. Criminal Offense Report) from Court Administration. CDR codes are assigned to all criminal statutes and are used by Clerks of Court for reporting cases prosecuted through the Court of General Sessions. Data for cases prosecuted under the Omnibus Adult Protection Act in 2001 has been provided by Court Administration and is included in Appendix C.

### *Public Guardianship Committee*

This committee was established to study the need for a public guardianship program in our state. There was concern about vulnerable adults in the community and in long-term care facilities who had no responsible party or legal guardian, no available or involved family

members, or who had family members who exploited the vulnerable adult.

The Committee's report and recommendations were completed and provided to the impacted agencies for their consideration and deliberation. The primary recommendation was to establish a public guardianship program, preferably as an independent entity. Further, it was suggested the public program could be expanded in the future to provide assistance to individuals on a private pay basis that could involve a sliding scale fee arrangement.

Other recommendations included the following: 1) Explore the potential for utilizing available federal matching funds under the Medicaid Program to meet the costs of providing the necessary assistance for "at risk" individuals. Possibilities may include the use of the targeted case management function and the development of additional services offered under the home and community-based waiver programs. 2) Consider the implementation of volunteer programs such as the AARP's money management assistance programs (currently operating in other states but not in South Carolina) and/or the enhancement of existing programs such as the financial management services provided by Family Services, Inc. of North Charleston, South Carolina. 3) Encourage hospital, nursing home and community residential care facility (CRCF) associations to provide training for hospital, nursing home and CRCF administrators and other appropriate staff regarding the management/assistance options that are currently available (e.g., representative payee status for Social Security benefits, Adult Health Care Consent Act provisions, etc.).

#### *Coordination Committee*

The Council established the Coordination Committee to explore the need for enhanced communication and coordination among agencies involved in problem situations with community residential care facilities (CRCF). Several agencies and law enforcement might be involved in problem situations and the coordination and collaboration among all entities involved was very important and critical to the protection of the vulnerable adult residents of facilities.

The Committee received reports from the agencies involved regarding their respective roles, responsibilities and statutory authority. An interagency coordination plan was developed that included triggers and action steps for the agencies involved. Input for the coordination plan was subsequently obtained from representatives of the community residential care facility industry.

#### *Relocation Committee*

Following development of the interagency coordination plan for CRCFs, a Relocation Committee was established to develop an interagency plan to assist CRCF residents with relocation when the residents needed to move to another facility. The Committee reviewed agencies' respective internal protocols for relocation of residents and initiated development of an interagency plan for assisting CRCF residents in these relocation situations.



### *Statutory Review Committee*

The Council re-convened the Statutory Review Committee to consider legal issues that had been identified regarding investigations of financial exploitation, subpoena powers, concerns regarding abuses of powers of attorney, and the possible need for an adult fatality review team. However, the primary focus of the Committee has been the statutory amendments proposed by DSS for the Omnibus Adult Protection Act. DSS has continued to discuss their proposals with the Committee and the Council but no action has been taken.

The Committee initiated its study of adult fatality review teams with a report from SLED and the chair of the Child Fatality Advisory Committee regarding the child fatality review process and role of the Child Fatality Advisory Committee. Collaboration with the Bankers Association regarding subpoena powers has been initiated. The Committee initiated discussion regarding powers of attorney and possible training needs of the investigative entities.

### *Other Activities*

At each quarterly meeting, the Council entertained a round table discussion to provide all members the opportunity to update the Council on pertinent activities. The information keeps the Council abreast of the current activities of the members.

The Council received a report regarding the US Supreme Court's Olmstead decision and its impact. The report included information regarding the duties and responsibilities of the state task force created by executive order of the Governor and the time frames for development of a plan for the state.

The Department of Labor, Licensing and Regulation, Board of Long Term Health Care Administrators provided information regarding complaint investigations involving licensed administrators of nursing facilities and community residential care facilities.

The Council initiated an evaluation of the utilization of the vulnerable adult medical/legal protocol.

## **VI. Future Directions**

Collaboration with the banking industry regarding financial exploitation and subpoena powers will resume. Language for a subpoena powers amendment was drafted for consideration.

Coordination and collaboration among member agencies and entities to meet training needs will continue. The development of the training videos will be the primary focus for training for next year. DSS invited Council members to attend a statewide training conference for adult protective services staff in February 2002. The Council will conduct a workshop for physicians at the South Carolina Medical Association's annual scientific assembly in April

2002 regarding the vulnerable adult medical/legal protocol and the Omnibus Adult Protection Act.

The Public Awareness Committee will continue to focus on implementation of the public awareness plan and develop strategies for activities or materials to target the next priority audiences for information, i.e., law enforcement and medical professionals. The financial exploitation brochure will be completed and a pilot of its effectiveness implemented. A proclamation for February 2002 as Vulnerable Adult Awareness Month will be requested.

The evaluation of the utilization of the vulnerable adult protocol will be conducted in collaboration with the South Carolina Health Alliance and others.

The status of the public guardianship report and recommendations will be monitored and any follow-up information provided.

The Relocation Committee will complete its deliberations and develop the plan for agencies that assist CRCF residents with relocation. This plan and the coordination plan will be provided to the Office of the Governor.

## **Appendix A**

### **2001 Members/Designees**

Chairperson:

Mr. Wilson Dillard, Administrator  
Mountainview Nursing Home  
S. C. Health Care Association

Vice-Chairperson:

Mr. Bill Gambrell, Esq., Director  
Medicaid Fraud Control Unit  
Office of the Attorney General

Honorable Denny W. Neilson, Chair  
Joint Legislative Committee on Aging

Mr. Andy Blackwell, Chief  
Irmo Police Department, S. C. Police Chiefs' Association

Mr. William Bilton, Esq., Executive Director  
S. C. Commission on Prosecution Coordination

Ms. Gloria Prevost, Director  
Protection & Advocacy for People with Disabilities, Inc.

Mr. Jeff Moore, Executive Director  
S. C. Sheriffs' Association

Ms. Dana Welborn, Executive Director  
Board of Long Term Health Care Administrators  
S. C. Department of Labor, Licensing and Regulation

Mr. Donald Hayden, Manager  
Regulatory Compliance, State Board of Nursing  
S. C. Department of Labor, Licensing and Regulation

Ms. Dale Watson, Coordinator  
Bureau of Senior Services, S. C. Department of Health and Human Services

Mr. Randy Thomas, Instructor,  
Criminal Justice Academy Division, S. C. Department of Public Safety

Ms. Karen Price, RN, Director

Bureau of Certification, S. C. Department of Health and Environmental Control

Mr. Doug Cochran, J.D., Director  
Client Advocacy, S. C. Department of Mental Health

Lt. Teresa Woods, Director  
Missing Person Information Center, State Law Enforcement Division

Ms. Kelly Danias, Director  
Governmental and Public Affairs, S. C. Medical Association

Mr. Wayne Phillips  
S. C. Home Care Association

Ms. Jean Rice, RN, MSN  
S. C. Department Health and Human Services

Mr. Jon Cook, State Long Term Care Ombudsman  
S. C. Department of Health and Human Services

Ms. Susan Thompson, Interim Director  
Planning and Productivity Division, S. C. Department of Disabilities and Special Needs

Ms. Mary Williams, Esq., Director  
Division of Human Services, S. C. Department of Social Services

Ms. Barbarette Washington  
Gubernatorial Appointee

Ms. Janet Weaver  
Gubernatorial Appointee

## **Appendix B**

### **Duties of the Council**

Omnibus Adult Protection Act, Section 43-35-330, Duties of Council.

(A) Duties of the council are to:

- (1) Provide oversight in adult protection and to recommend changes in the system;
- (2) Identify and promote training on critical issues in adult protection;
- (3) Facilitate arrangements for continuing education seminars and credits, when appropriate;
- (4) Coordinate agency training when possible to avoid duplication;
- (5) Coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect, and exploitation;
- (6) Determine and target problem areas for training based on the analysis of the data;
- (7) Promote resource development;
- (8) Assist with problem resolution and facilitate interagency coordination of efforts;
- (9) Promote and enhance public awareness;
- (10) Promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families;
- (11) Provide technical assistance for developing memoranda of agreement among involved entities;
- (12) Promote coordination and communication among groups and associations which may be affected by the Adult Protection Coordinating Council's actions through the use of memoranda of agreement.

## **Appendix C**

### **Data**

The data below represents the total number of reports for the investigative entities for the Federal fiscal year October 1, 2000 through September 30, 2001.

DEPARTMENT OF SOCIAL SERVICES - Total reports: 4,501

For further information, call the Division of Adult Services and Case Management, Department of Social Services, at 803-898-7318.

LONG TERM CARE OMBUDSMAN - Total reports: 4,791

For further information, call the State Long Term Care Ombudsman, Department of Health and Human Services, at 803-898-2580.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL - Total reports: 452

For further information, call the Division of Certification, Department of Health and Environmental Control, at 803-737-7205.

*Other data gathered by the Council:*

COURT ADMINISTRATION - For calendar year 2000, total number of dispositions in General Sessions Courts for offenses under the Omnibus Adult Protection Act: 92

For further information, call the Division of Court Administration, Judicial Department, at 803-734-1800.

ATTORNEY GENERAL'S OFFICE

*Medicaid Fraud Control Unit* - Total Reports: 564

For further information, call the Medicaid Fraud Control Unit at 803-734-3660.

*Elder Abuse and Adult Protection Unit* - referrals for calendar year 2001: 531

For further information call the Elder Abuse and Adult Protection Unit at 803-734-7135.

## **Appendix D**

### **Proclamation of Vulnerable Adult Awareness Month**